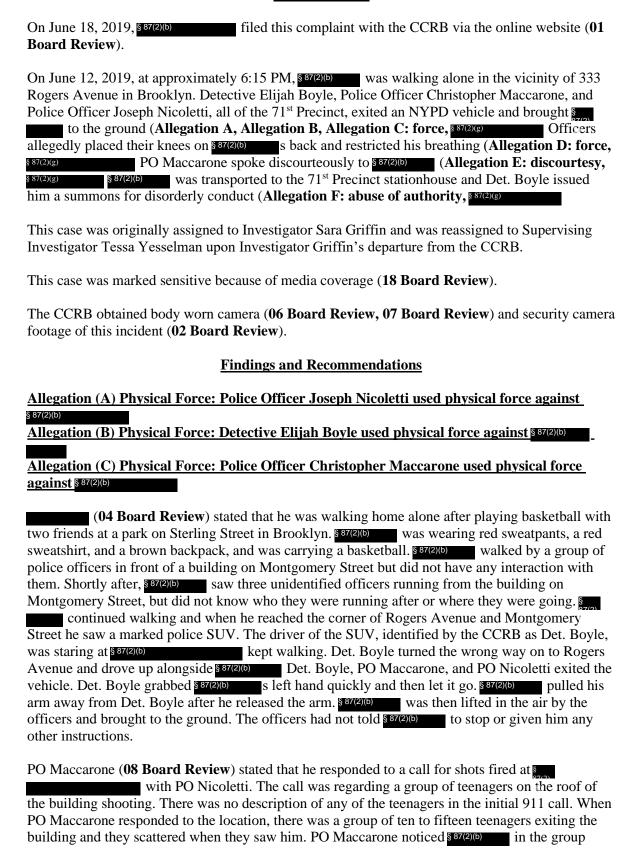
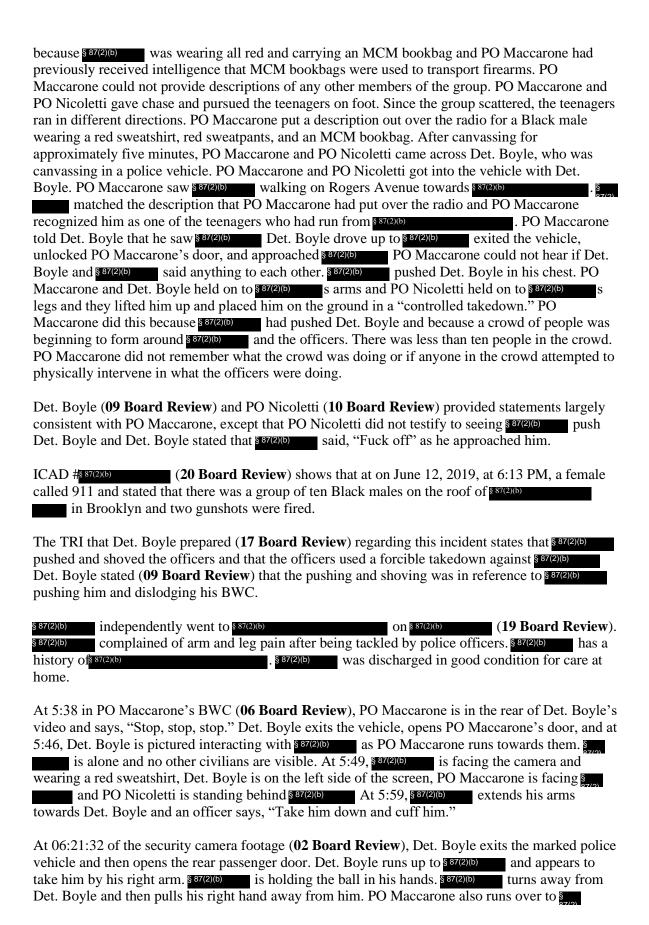
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Ø	Force	$\overline{\checkmark}$	Discourt.	☐ U.S.
Tessa Yesselman		Squad #4	201905345	Ø	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	F	Precinct:	18	Mo. SOL	EO SOL
Wednesday, 06/12/2019 6:15 PM		333 Rogers Avenue			71	12	/12/2020	7/29/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCF	RB
Tue, 06/18/2019 4:10 PM		CCRB	On-line website		Tue, 06/18	3/2019	9 4:10 PM	
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. DTS Elijah Boyle	01226	950096	071 PCT					
2. POM Christophe Maccarone	08142	956054	071 PCT					
3. POM Joseph Nicoletti	10711	961004	071 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. SGT Joseph Lafata	04931	935150	INT CIS					
2. SGT Joseph Naranjo	04192	952045	071 PCT					
3. POM Stephen Schmitt	12418	956245	113 DET					
4. POM Eric Ruiz	24356	923086	071 PCT					
5. POM Luis Lopez	27415	930590	071 PCT					
6. POM Kevin Adair	15183	955706	INT CIS					
7. SGT Martin Cunningham	02100	946888	071 PCT					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A.POM Joseph Nicoletti	Force: Poagainst	olice Officer Joseph Nic	coletti used physical	forc	e			
B.DTS Elijah Boyle	Force: D	etective Elijah Boyle us	ed physical force ag	ains	t			
C.POM Christophe Maccarone	Force: Po	olie Officer Christophe linst § 87(2)(b)	Maccarone used phy	sica	1			
D.DTS Elijah Boyle	Force: Debreathing	etective Elijah Boyle re	stricted §8	7(2)(b	S			
E.POM Christophe Maccarone	Force: Po	olice Officer Christophe s breathing.	Maccarone restricte	ed				
F.POM Christophe Maccarone	Discourte discourte	esy: Police Officer Chri ously to § 87(2)(b)	stophe Maccarone sp	oke				
G.DTS Elijah Boyle	Abuse: D	Detective Elijah Boyle ir	nproperly issued a si	ımn	nons			

## **Case Summary**



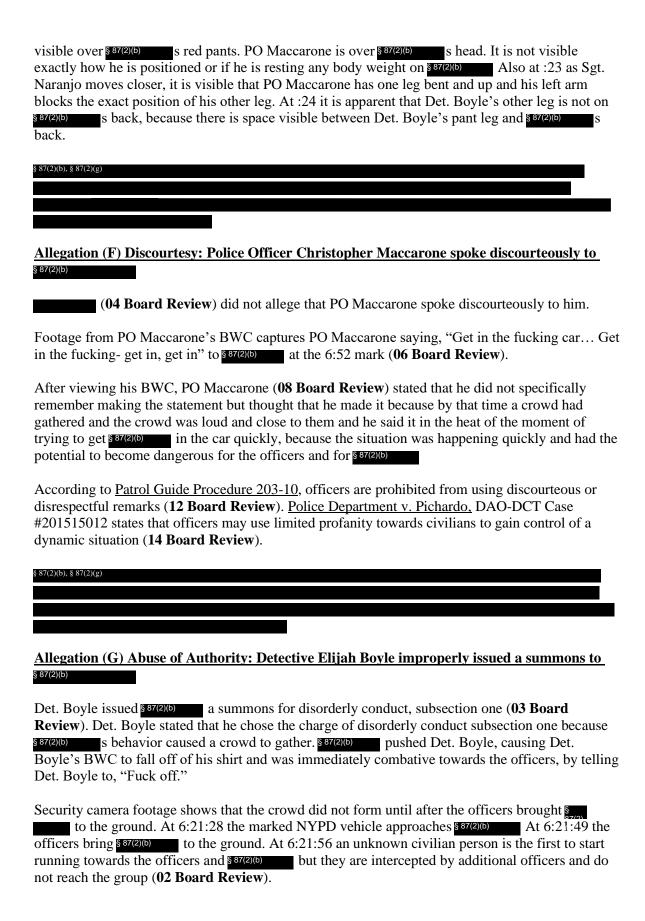


and Det. Boyle. At the 06:21:35 minute mark, PO Nicoletti exits the SUV from the driver side rear passenger seat. pulls away from Det. Boyle. At the 06:21:37 minute mark, PO Nicoletti positions himself behind structure. At the 06:21:43 minute mark, another plainclothes officer, Sgt. Lafata emerges from behind the vehicle. At the 06:21:42 minute mark, structure mar

<u>Patrol Guide Procedure 221-02</u> states that an officer may use only the reasonable force necessary to gain control or custody of a subject (**13 Board Review**). The procedure also enumerates factors officers should consider when determining whether use of force is reasonable. The factors are as follows:

- a. The nature and severity of the crime/circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the number of MOS
- h. Size, age, and condition of the subject in comparison to the MOS
- i. Subject's violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant/narcotic

§ 87(2)(b), § 87(2)(g)
Allegation (D) Physical Force: Detective Elijah Boyle restricted structure is breathing.  Allegation (E) Physical Force: Police Officer Christophe Maccarone restricted structure is breathing.
(04 Board Review) stated that officers placed their knees on his back and face such that it restricted his breathing.
Video shows that Det. Boyle and PO Maccarone were the two officers positioned around stated that they did not put their knees in \$87(2)(b) as back or face. PO Nicoletti and Sgt. Naranjo both stated that they did not see any officer put their knee in \$87(2)(b) as face or back.
At :22 of Sgt. Naranjo's BWC ( <b>07 Board Review</b> ), PO Nicoletti is pictured kneeling over shorts s legs. At :23, Det. Boyle is pictured with his knee on what appear to be blue boxer shorts



<u>Section 240.20 subsection 1</u> of the New York State penal code (**16 Board Review**) states: "A person is guilty of disorderly conduct when, with intent to cause public inconvenience or alarm, or recklessly creating a risk thereof: 1) He engages in fighting or in violent, tumultuous or threatening behavior."

§ 87(2)(b), § 87(2)(g)			

## Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(b) has been party (15 Board Review).
- PO Nicoletti has been a member of service for four years and has been a subject in three previous cases with ten allegations and one substantiation. PO Nicoletti is a subject in an additional open case, with five allegations.
  - In CCRB case 201900799 an allegation of failure to provide a Right to Know Act business card was substantiated against PO Nicoletti. The CCRB recommended command level instructions and the NYPD imposed instructions.
  - PO Nicoletti has four physical force allegations.
- PO Maccarone has been a member of service for six years and has been a subject in three previous cases with ten allegations and no substantiations.
  - o PO Maccarone has two previous physical force allegations and one discourtesy allegation.
- Det. Boyle has been a member of service for nine years and has been a subject in eight previous cases with eleven allegations and one substantiation.
  - In CCRB case 201803645 an allegation of abuse of authority (frisk) was substantiated against Det. Boyle. The CCRB recommended formalized training and the NYPD imposed formalized training.

## **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- \$87(2)(b) s attorney, filed a Personal Injury Claim with the Office of the New York City Comptroller (05 Board Review).
- According to the Office of Court Administration (OCA), \$87(2)(b) has no history of convictions in New York City (11 Board Review).

Squad No.:	4
Jquuu I 10	

Investigator:	<u>lessa Yesselman</u>	Si Tessa Yesselman	10/28/2020
	Signature	Print Title & Name	Date
Squad Leader:	Raquel Velasquez	IM Raquel Velasquez	11/10/2020
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date